

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA AT ELKINS**

**FRIEDRICHS HARRIS, ADMINISTRATOR OF
THE ESTATE OF EVAN M. HARRIS,**

Plaintiff,

v.

**CIVIL ACTION NO.: 2:16-cv-00046
JUDGE BAILEY**

**Q&A ASSOCIATES, INC.,
ANGELA SHOCKLEY, KEITH BISHOP,
MATTHEW SHOCKLEY, SANDY
SCHMIEDEKNECHT, and TAMMY ROBBINS.**

Defendants.

DEFENDANTS' RULE 26 EXPERT WITNESS DISCLOSURE

Defendants, Q&A Associates, Inc., Angela Shockley, Keith Bishop, Matthew Shockley, Sandy Schmiedeknecht, and Tammy Robbins (hereinafter collectively "Defendants"), make the following expert disclosure pursuant to Federal Rule of Civil Procedure 26(a)(2) and the Amended Scheduling Order in this case. Defendants note that Plaintiff has failed to make expert disclosures pursuant to Rule 26(a)(2) and this Court's schedule.

At this time, the Defendants disclose the following expert:

1. **Daniel Bruce Thistlethwaite, M.D.**
312 6th Avenue, Suite 2
South Charleston, WV 25303

Dr. Thistlethwaite is a board certified psychiatrist licensed in the state of West Virginia. Dr. Thistlethwaite is expected to testify consistent with his report, attached as Exhibit 1. His opinions are stated to a reasonable degree of medical certainty.

Dr. Thistlethwaite's history of testimony is attached as Exhibit 2; his curriculum vitae is attached as Exhibit 3, his list of reliance materials is attached as Exhibit 4; and his fee schedule is attached as Exhibit 5.

2. Defendants reserve the right to disclose an expert to offer testimony regarding the assessment, monitoring, and programs of Q&A Associates, Inc. and its staff depending on whether plaintiff is permitted to offer expert testimony in these areas.

3. Defendants reserve the right to disclose additional experts depending on what theory or theories plaintiff pursues in this matter, as discovery is ongoing and plaintiff has thus far not identified a theory that he believes was the cause of the subject incident.

4. Defendants reserve the right to elicit expert opinions from fact witnesses to the extent they are qualified and competent to render such opinions in this civil action.

5. Defendants reserve the right to call any additional witnesses whose identity may be disclosed through discovery or additional investigation, between the date of this designation until the time of trial.

6. Defendants reserve the right to call any witness identified or deposed with respect to the relevant issues involved in this litigation.

7. Defendants reserve the right to supplement this expert witness designation.

8. Defendants reserve the right to disclose rebuttal experts as discovery is ongoing.

DEFENDANTS,**By Counsel**/s/ Lindsey M. Saad

Lindsey M. Saad (WV Bar No. 11155)
FLAHERTY SENSABAUGH BONASSO PLLC
48 Donley Street, Suite 501
Morgantown, WV 26501
(304) 598-0788
(304) 598-0720 (fax)
lsaad@flahertylegal.com

and

Thomas V. Flaherty (WV Bar No. 1213)
FLAHERTY SENSABAUGH BONASSO PLLC
200 Capitol Street
P.O. Box 3843
Charleston, WV 25338
(304) 345-0200
(304) 345-0260 (fax)
tflaherty@flahertylegal.com

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FOR THE NORTHERN DISTRICT OF WEST VIRGINIA AT ELKINS**

**FRIEDRICHS HARRIS, ADMINISTRATOR OF
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Plaintiff,

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**CIVIL ACTION NO.: 2:16-cv-00046
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**Q&A ASSOCIATES, INC., A WEST VIRGINIA
CORPORATION, ANGELA SHOCKLEY, KEITH
BISHOP, MATTHEW SHOCKLEY, AND SANDY
SCHMIEDEKNECHT, and TAMMY ROBBINS.**

Defendants.

CERTIFICATE OF SERVICE

I certify that on this 15th day of December, 2017, I filed electronically via CM/ECF a true copy of "DEFENDANTS' RULE 26 EXPERT DISCLOSURE" with notice of the same being electronically served by the Court and a copy served via U.S. Mail to the to the following:

David A. Sims, Esq.
Law Offices of David A. Sims, PLLC
P.O. Box 5349
Vienna, WV 26105

/s/ Lindsey M. Saad -
Lindsey M. Saad (WV Bar No. 11155)

CURRICULUM VITAE

Daniel Bruce Thistlethwaite, M.D.

312 6th Avenue, Suite 2
South Charleston, WV 25303
(304) 768-6170
Email: docthiissy@aol.com

BIOGRAPHICAL

Birth Date: May 23, 1960
Place of Birth: Toronto, Canada
Citizenship: U.S.
Marital Status: Married

MEDICAL LICENSURE

State of West Virginia: License # 15674

BOARD CERTIFICATIONS

Diplomate American Board of Forensic Medicine – October, 1996
Diplomate American Board of Forensic Examiners – 1995
American Board of Psychiatry & Neurology – June, 1993

PROFESSIONAL ASSOCIATIONS

West Virginia Psychiatric Association
American Psychiatric Association
American Academy of Psychiatry and the Law
American College of Forensic Examiners
American College of Sports Medicine

EDUCATION AND TRAINING

07/01/87-06/30/91: Charleston Area Medical Center
Internship/Residency in General Psychiatry
1983-1987: West Virginia University – Doctor of Medicine
1982-1983: West Virginia University – Graduate Studies
1978-1982: West Virginia University – BA Degree, Chemistry

CONTINUING MEDICAL EDUCATION

10/2013 Duke University-Visiting Fellowship in Transcranial Magnetic Stimulation

HOSPITAL AFFILIATIONS

Emeritus Staff – Charleston Area Medical Center, Charleston, WV

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Re: Daniel Bruce Thistlethwaite, M.D.

PROFESSIONAL EXPERIENCE

07/91-Present	President PsyCare, Inc., 312 6 th Avenue, Suite 2, South Charleston, WV 25303
1997-2007	Medical Coordinator Annual Mountain Retreat Psychiatric Conference, Snowshoe, WV
01/01-11/01	Secretary/Treasurer, Medical Staff Thomas Memorial Hospital, South Charleston, WV
06/00-01/02	Consultant/Advisor to HCAP West Virginia Bureau of Employment Programs, Charleston, WV
01/98-09/01	Chief of Psychiatry Thomas Memorial Hospital, South Charleston, WV
03/96-09/06	Consultant West Virginia Department of Corrections, Charleston, WV
03/96-03/07	Consultant West Virginia Department of Juvenile Corrections, Charleston, WV
03/96-10/04	Co-Medical Director Forensic Unit, South Central Regional Jail, Charleston, WV
01/93-05/96	Consultant Seneca Mental Health Center
08/91-09/01	Medical Director, Beacon Partial Hospitalization Program Thomas Memorial Hospital, South Charleston, WV
01/91-03/91	Chief Resident, Department of Behavioral Medicine and Psychiatry West Virginia University, Charleston, WV

APPOINTMENTS

07/93-Present Clinical Associate Professor, West Virginia University

HONORS

Fellow American Psychiatric Association-- December, 2013

Award for Teaching Excellence -- Presented by senior medical students -- 1989

Page # 3 – Curriculum Vitae

Re: Daniel Bruce Thistlethwaite, M.D.

Award for Teaching Excellence – Presented by senior medical students – 1988

Merck Sharp Dohme Award for Clinician of the Year – Senior year of medical school – 1987

PUBLICATIONS

**Poster Presentation – Two Cases of QTc Prolongation with Ziprasidone in the Elderly APA – 53rd
Institute On Psychiatric Services, 10/12/01**

**Factitious Disorder, Case Study and Literature Review. Presented at Charleston Area Medical
Center Research Day, 04/24/91. Awarded 2nd prize for outstanding paper**

PRESENTATIONS

**“VNS – A New Treatment Strategy for Major Depressive Disorder”: Snowshoe Mountain Resort –
09/10/06**

**“Expert Testimony and Medical Ethics”: Workers’ Compensation and Employment Law Conference;
Tamarack, Beckley, WV – 05/06/05**

**“Using Psychiatric and Psychological Experts in Litigation: Psychological and Psychiatric Evaluations
Used During the Trial Process in West Virginia”: Charleston – 10/15/04 and 10/14/05**

“Mental Health Issues in the Aging Patient”: NASWV Conference – 03/29/04

Guest Lecturer WVU School of Law – Medicine and the Law – Varied topics

**“Fine Tuning the Treatment of Depression: Augmentation Strategies and Managing Complex Patients”:
Montreal, Canada: Continuing Medical Education, Inc. – 08/04/00**

**“Successful Management of Depression: A Physiological Approach”: Seattle, WA; Continuing Medical
Education, Inc. – 06/08/00**

**“Successful Management of Depression: A Physiological Approach”: Costa Mesa, CA; Continuing
Medical Education, Inc. – 06/07/00**

“Depression and PMDD: Successful Outcomes for the Millennium”: Cincinnati, OH – 06/04/00

“Clinical Solutions to Managing Complicated Depression”: San Diego, CA – 03/22/00

Speakers Bureau/Lecturer for: Forest, Takeda

Revised: 02/27/2014

Comprehensive Mental Health Services

(304) 768-6170 Phone

(304) 768-2099 Fax

(304) 768-7465 Administrative Fax



312 6th Avenue, Suite 2

South Charleston, WV 25303-1265

December 14, 2017

Lindsey M. Saad
Flaherty, Sensabaugh Bonasso, PLLC
48 Donley Street, Suite 501
Morgantown, WV 26501

Re: Evan Harris
DOB: 05.25.92
CASE #: 2:16-cv-00046

Dear Ms. Saad:

I have reviewed the records you provided in the Evan Harris case. I have also reviewed the complaint provided by the plaintiff.

The plaintiff alleges that Q&A Associates Inc. and staff were negligent in its behavior and treatment of Evan Harris which ultimately led to his death by suicide. In reviewing the records provided it is clear that Mr. Harris had a chronic psychiatric history with multiple hospitalizations and multiple treatments in both residential and outpatient mental health programs. The programming provided by Q&A Associates was designed to assist Mr. Harris in his transition as young adult into being more independent. There is no evidence that Q&A Associates represented themselves as an inpatient program. The program clearly described themselves as a program that would provide counseling assistance and vocational assistance to provide an opportunity for young adults to become more independent.

Mr. Harris was seen on a regular basis while in the Q&A program by Jen Randall. Her counseling notes document appropriate interventions in attempting to assist Mr. Harris in the goal of becoming more independent and dealing with issues that arose while he was a participant in the program. At no time was there an indication that Mr. Harris was showing signs or symptoms of becoming a significant suicide risk. Notes from other staff members also describe very positive interactions with Mr. Harris specifically on the day prior to his suicide. There is nothing in the records that would suggest that the staff at Q&A should have been alerted to any significant suicide risk in this individual.

While Mr. Harris clearly had a history of chronic psychiatric problems there is no evidence in his previous records that suicidal behavior had been engaged in on any significant level. Therefore I

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Case#: 2:16-cv-00046

believe the risk assessments provided by Q&A were appropriate and met the standard of care that would be expected in monitoring an individual with the types of problems that Mr. Harris had displayed throughout his life.

In summary after reviewing all the records provided although Mr. Harris clearly had a chronic psychiatric history there was nothing to suggest that the staff at Q&A Associates were negligent in their monitoring, assessing, or providing therapeutic intervention to Evan Harris which would have led to his death by suicide.

The opinions in this letter are stated to a reasonable degree of medical certainty.

Thank you very kindly for the referral of this case if you have questions please feel free to contact this office.

Sincerely,

A handwritten signature in black ink that reads "Daniel B. Thistlethwaite MD". The signature is written in a cursive, flowing style.

Daniel B. Thistlethwaite, M.D.

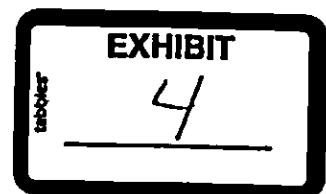
DATE	DR	CASE #	INITIALS	DEPO/COURT	CIVIL/CRIM	COUNTY
03/31/16	DT	C13-C-433	C.H.	COURT APPEARANCE	CIVIL	KANAWHA
03/11/16	DT	12-JS-26 (H)	JW	2nd DEPOSITION	CIVIL	FAYETTE
12/17/15	DT	12-JS-26 (H)	JW	DEPOSITION	CIVIL	FAYETTE
01/16/15	DT	13-C-433	C.H.	DEPOSITION	CIVIL	KANAWHA
10/09/13	DT	UNKNOWN	L.P.	DEPOSITION	CIVIL	KANAWHA

EXHIBIT

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Index of Documents Relied Upon by Dr. Thistlethwaite

1. Doc. 38 – Executed Protective Order (12/29/16)
2. Majoria Drug Records (9/13/17)
3. Pl's Exhibit 5 – Q&A emails, parent handbook, bills
4. Pl's Exhibit 6 – Q&A admission packet (blank)
5. Pl's Exhibit 7 – Evan Harris's Q&A admission packet (completed)
6. Pl's Exhibit 8 – Text messages from Kathy Harris
7. Pl's Exhibit 9 – Q&A notes on Evan Harris
8. Pl's Exhibit 10 – Notes from Counseling Sessions with Jen Randall, Bills
9. Pl's Exhibit 11 – photos
10. Pl's Exhibit 17 – Aspiro Documents
11. Pl's Exhibit 27 – Woodfin & Associates (Independent Educational Consultants) file on Evan Harris
12. Pl's Exhibit 30 – Excerpts from plaintiff's diary
13. Pl's Exhibit 32 – Dr. Pelts's file on Evan Harris
14. Pl's Exhibit 34 – Psychological evaluation of Evan Harris by Kevin Fenstermacher, Ph.D.
15. Pl's Exhibit 37 – NONLA medical records for Evan Harris
16. Pl's Exhibit 38 – Social Security 2011 Adult Disability Report
17. Pl's Exhibit 41 – Social Security Docs: Louisiana Department of Health and Hospitals file on Evan Harris
18. Pl's Exhibit 52 – Handwritten notes on Evan Harris September 2015 (Caitlyn Galt)
19. Pl's Exhibit 53 – Speech and Language Report by Children's Hospital
20. Pl's Exhibit 54 – Psych Evaluation by Three Springs Outdoor Therapeutic Program
21. Pl's Exhibit 55 – Neuropsychological Evaluation at Children's hospital
22. Pl's Exhibit 56 – Psychological Evaluation by Lynn Parker, Ph.D.
23. Pl's Exhibit 57 – Marcy Family Center's Classroom Evaluation Overview
24. Pl's Exhibit 59 – Neuropsychological Evaluation at San Marcos
25. Pl's Exhibit 60 – Discharge Summary from San Marcos
26. Death Certificate
27. Complaint
28. Walgreen's Pharmacy Records
29. CVS Pharmacy Records



PSYCARE, INC.
FEE SCHEDULE FOR FORENSIC SERVICES
(Effective 01/01/16)

Experts

Daniel Thistlethwaite, M.D. - Psychiatrist

Steven Dreyer, Ph.D. - Neuropsychologist

Rates Per Expert

Daniel Thistlethwaite, M.D.

Steven Dreyer, Ph.D

Expert Forensics Rates - \$600/hr

Expert Forensics Rates - \$400/hr

**Deposition: \$750/hr for scheduled time
Two Hour Minimum**

**Deposition: \$500/hr for scheduled time
Two Hour Minimum**

**Court Appearance: Half-Day - \$ 4000.00
Full Day - \$ 8000.00**

**Court Appearance: Half-Day - \$ 2500.00
Full Day - \$ 4000.00**

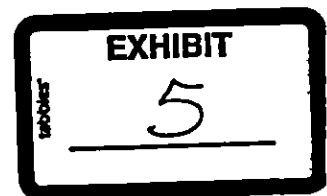
Psychological Testing: Priced per Battery

Expert Forensic Rates: The hourly rate for forensic services includes, but is not limited to, clinical interview(s), record review, report preparation, telephone conferences and meeting with counsel. Any time which is related to the case beyond the scope of an initial telephone interview of the consultation, may be considered billable time.

Deposition Rates: The deposition rate pertains to blocked time allotted for the deposition, not on actual length of deposition. A retainer for the scheduled time at the hourly rate listed above must be paid prior to the time of the deposition. Depositions are scheduled for a minimum of 2 hours per expert.

- ** The retainer must be received 1 week prior to the scheduled deposition or we will not be able to proceed with the deposition.**
- ** If the deposition continues beyond the scheduled time on the same day, a \$1000.00 per hour time rate will be charged. Continuation of deposition past the scheduled time may not be possible due to scheduling conflicts and must be continued on another date.**
- ** No refund of retainer fees will be issued if the deposition is completed early. Retainer is based on time blocked for the deposition, not actual length of deposition.**

Court Appearance: The rate for court appearance is *only* for court appearance, including travel (portal to portal). Any trial preparation including, but not limited to, meeting or phone conference with attorney and record review will be billed at the hourly expert forensic rate.



Psychological Testing: Psychological Testing is priced at a flat rate for the administration of a selected battery of tests as determined by the psychologist. Tests administered may be altered at the time of administration at the discretion of the psychologist.

Retainer for Services: A retainer for any forensic service is required prior to any forensic expert services being conducted. The retainer is estimated utilizing scheduled interview time, anticipated record review (1 hour per 1 inch of records), report preparation and psychological testing. The retainer amount will be determined upon receiving the above information. The retainer is strictly an estimate of costs for services to be provided. The retainer will be credited against the final bill.

- ** The retainer must be received 1 week prior to any scheduled IME, Deposition or Court Appearance.**
- ** Contingency fees will *not* be accepted under *any* circumstance.**

Cancellation / No Show Policy:

Any forensic appointment that is a No Show or Cancelled within 24 hours of the scheduled appointment will be billed at 100% of the scheduled time.

Any forensic appointment, including but not limited to clinical interview, deposition, meeting with attorney or court appearance cancelled 25-48 hours prior to the scheduled appointment will be billed at 50 % of the scheduled time.

Any record review completed prior to a No Show or Late Cancellation will be billed at the full expert rate, in addition to all applicable No Show/ Late Cancellation charges.

A flat rate of \$250.00 for a psychological test battery and \$ 425.00 for a neuropsychological test battery will also be billed for any No Show or Late Cancellation.

Scheduling Order / Records: A copy of the Scheduling Order is required to be submitted for our file. Any changes made to the original scheduling order need to be brought to our attention immediately. A copy of ALL records (legal and medical) need to be sent to our office for expert review prior to the IME being conducted. PsyCare does prefer paper copies of all records to be sent for review.

A copy of school transcripts, including any psychological or standardized testing, is required for any neuropsychological evaluation (when cognitive issues are part of the claim). If possible, PsyCare does prefer paper copies of all records to be sent for review.

Questions / Concerns: If you have any questions regarding our Fee Schedule or IME policies, please contact Amy Rochette, Forensic Coordinator, at 304.768.6170, ext. 108.

Checks are to be made payable to:

**PsyCare, Inc.
312 6th Avenue, Suite 2
South Charleston, WV 25303**

FEIN # 550715643